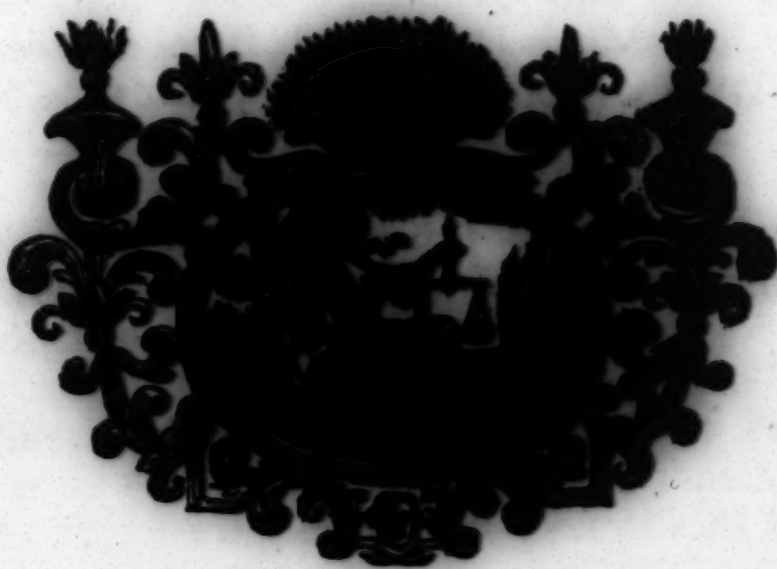


The LORDS
PROTESTS,
AND
DEBATES
THEREON,
In the YEAR 1717-18.

CONTAINING

The Reasons of R— W—, Esq; now Sir
R— W—, against the Number of Forces
propos'd.

Very proper to be read in the Present Crisis.



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THE LORDS
P. R. O. T. E. S. T.

Q. V. A.

2 E B A T E

in the Y E A R 1717-18

proposed.

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PROTESTS

AND

DEBATES

IN THE

YEAR 1717-18.

IN February 1717-18, the Nation being at Peace after the Rebellion, it was proposed in Parliament by some of the Ministers, that the Number of Forces for the Year 1718 should be sixteen thousand Men, which being carried in the Affirmative, a Bill was brought in to punish Mutiny and Desertion; upon which the following Motion was made.

That it be an Instruction to the Committee that they do provide that no Punishment shall be inflicted by any Court Martial which shall extend to Life or Limb, which was carried in the Negative.

Memorandum.

We whose Names are subscribed do protest against the Resolution for refusing the Instruction moved for to the Committee on the Mutiny Bill, for the Reasons following :

I. BEcause the Exercise of Martial Law, in Time of Peace, with such Power as is given by this Bill to inflict Punishments extending to Life and Limb, was not in the first Year of this Reign, nor had in any former Reign been allowed within this Kingdom by Consent of Parliament : but has, upon any Attempt made to introduce such a Power, been oppos'd and condemn'd by Parliament, as repugnant to *Magna Charta*, and inconsistent with the fundamental Rights and Liberties of a free People.

H. BEcause after the Peace of *Ryswick* and that of *Utrecht*, in the several Reigns of King *William* and Queen *Anne*, of glorious and ever

bleſſed Memories, no ſuch Power was given to any Courts Martial ; and yet it is well known, that the Forces then continued on Foot were kept in exact Diſcipline and Order.

III. Becauſe it is not aſcertained by this Bill, or by any other known Law or Rule, what Words or Facts amount to Mutiny and Deſertion, or to an exciting, cauſing, or joining in Mutiny ; and conſequently the Judges of a Court Martial have it in their Power to declare what Words or Facts they think fit to be Mutiny or Deſertion, and to take away the Life of any Officer or Soldier by ſuch an arbitrary Deciſion.

IV. Becauſe, ſhould Death be thought the proper Punishment in Time of Peace for Mutiny and Deſertion, or even for the leaſt Diſobedience to any lawful Command, yet, as we conceive, the Nature of ſuch Offences ought firſt to be aſcertained by this Bill ; and the ſaid Offences being declared capital, the Trial thereof ought to have been left to the ordinary Courſe of Law ; in Conſequence whereof the Officers and Soldiers would, upon ſuch Trials, have been entitled to all thoſe valuable Privileges which are the Birth-Right of every Briton : Nor does it appear to us, that any Inconvenience could thereby have ariſen to the Publick in Time of Peace, at leaſt, not any ſuch as can juſtify our depriving the Soldiery of thoſe legal Rights which belong to the meaneſt of their Fellow-Subjects, and even the vileſt of Malefactors.

W. Ebor.

Strafford,

Guilford,

de Loraine,

Abingdon,

Dartmouth,

Belhaven,

Jo. London,

Harcourt,

Willoughby de Br',

Townſhend,

Boyle,

Bristol,

Caſtleton,

Foley,

Tadcaſter,

Poulet,

Gower,

Rutland,

Mountjoy,

Batburſt,

Lumley,

Trevor,

Bingley,

Bute,

P. Herefordienſis,

Berkley of Str',

Northampton,

Hay,

Wefton,

Devonſhire,

Scarſdale,

Mauſel,

Fr. Roſſenſis,

Oxford,

Fr. Ceſtrienſis,

Georg. Briſtolienſis,

Compton,

North and Grey,

Greenwich,

Maſham.

Then a Motion was made, that it be an Inſtruction to the ſaid Committee of the whole Houſe, that they do make an effectual Proviſion to ſecure the Obedience of the Officers and Soldiers to be continued by this Bill to the Civil Magiſtrate, according to Law, but it being repreſented that the ſaid Clause was altogether unneceſſary, and it being carried in the Negative, it produced the following Proteſt.

Memorandum.

We whoſe Names are ſubſcribed do proteſt againſt the Reſolution for reſuſing the other Inſtruction mov'd to be given to the ſaid Committee on the Mutiny Bill, for the Reaſons following :

I. Becauſe

I. **B**Ecause no Provision whatsoever is made by this Bill for securing the Obedience of the Military to the Civil Power, on which the Preservation of our Constitution depends.

II. Because we conceive, that a great Number of armed Men govern'd by Martial Law, as they have it in their Power, so are they naturally inclin'd, not only to disobey, but to insult the Authority of the Civil Magistrate; and we are confirm'd in this Opinion, as well as by the Experience of what has happen'd here at Home, as by the History of all Ages and Nations, from which it appears, that wherever an effectual Provision has not been made to secure the Obedience of the Soldiers to the Laws of their Country, the Military has constantly subverted and swallow'd up the Civil Power.

W. Ebor.
Strafford,
Guilford,
de Loraine,
Abingdon,
Dartmouth,
Belhaven,
Jo. London,
Harcourt,
Willoughby de Br',
Townshend,
Boyle,
Bristol,
Castleton,

Foley,
Tadcaster,
Poulet,
Gower,
Rutland,
Mountjoy,
Bathurst,
Lumley,
Trevor,
Bingley,
Bute,
P. Herefordiensis,
Berkley of Str',
Northampton,

Ilay,
Weston,
Devonshire,
Scarsdale,
Mansel,
Fr. Rossensis,
Oxford,
Fr. Cestriensis,
Georg. Bristolensis,
Compton,
North and Grey,
Greenwich,
Masbam.

Upon the third reading of the Mutiny Bill several Lords enter'd the following Protest.

Dissentient.

I. **B**Ecause the Number of 16347 Men is declar'd necessary by this Bill, but it is not therein declar'd, nor are we any Way to satisfy ourselves, from whence that Necessity should arise, the Kingdom being now (God be prais'd) in full Peace, without any just Apprehension, either of Insurrections at Home, or Invasions from Abroad.

II. Because so numerous a Force is near double to what hath ever been allow'd within this Kingdom, by Authority of Parliament, in Times of publick Tranquility; and being, as we conceive, no Ways necessary to support, may, we fear, endanger our Constitution, which hath never yet been entirely subverted but by a standing Army.

III. Because the Charge of keeping up so great a Force ought not unnecessarily to be laid on the Nation, already over-burthen'd with heavy Debts, and this Charge we conceive to be still more unnecessarily increased by the great Number of Officers now kept on the Establishment, in Time of Peace; a Number far greater (in Proportion to that of the Soldiers commanded by them) than hath ever yet been thought requisite in Times of actual War.

B

IV. Because

IV. Because such a Number of Soldiers dispers'd in Quarters throughout the Kingdom, may occasion great Hardships, and become very grievous to the People, and thereby cause or increase their Disaffection, and will, probably, ruin many of his Majesty's good Subjects on whom they shall be quarter'd, and who have been already by that Means greatly impoverish'd.

V. Because such a standing Force, dangerous in itself to a free People in Time of Peace, is, in our Opinion, render'd yet more dangerous by their being made subject to Martial Law: A Law unknown to our Constitution, destructive of our Liberties, not endur'd by our Ancestors, and never mentioned in any of our Statutes, but in order to condemn it.

VI. Because the Officers and Soldiers themselves, thus subjected to Martial Law, are thereby upon their Trials divested of all those Rights and Privileges, which render the People of this Realm the Envy of other Nations, and become liable to such Hardships and Punishments, as the Lenity and Mercy of our known Laws utterly disallow; and we cannot but think those Persons best prepar'd, and most easily tempted to strip others of their Rights, who have already lost their own.

VII. Because a much larger Jurisdiction is given to Courts Martial by this Bill than to us seems necessary for maintaining Discipline in the Army, such Jurisdiction extending not only to Mutiny, Desertion, Breach of Duty, and Disobedience to military Commands, but also to all Immoralities, and every Instance of Misbehaviour which may be committed, by any Officer or Soldier, towards any of his Fellow-Subjects; by which Means the Law of the Land, in Cases proper to be judg'd by that alone, may, by the summary Method of Proceedings in Courts Martial, be obstructed or superseded, and many grievous Offences may remain unpunish'd.

VIII. Because the Officers constituting a Court Martial do at once supply the Place of Judges and Jurymen, and ought therefore, as we conceive, to be sworn upon their trying any Offence whatsoever; and yet it is provided by this Bill, That such Officers shall be sworn upon their trying such Offenders only as are punishable by Death, which Provision, we apprehend, to be defective and unwarranted by any Precedent; there being no Instance within our Knowledge, wherein the Judges of any Court, having Cognizance of capital and lesser Crimes, are under the Obligation of an Oath in respect of the one, and not of the other.

IX. Because the Articles of War, thought necessary to secure the Discipline of the Army in Cases unprovided for by this Bill, ought, in our Opinion, to have been inserted therein, in like manner as the Articles and Orders for regulating and governing the Navy, were enacted in the 13th Year of King *Charles II*, to the End that due Consideration might have been had by Parliament, of the Duty enjoyn'd by each Article to the Soldiers, and of the Measure of their Punishment; whereas the Sanction of Parliament is now given by this Bill to what they had no Opportunity to consider.

X. Because

X. Because the Clause to the Bill, enabling his Majesty to establish Articles of War, and erect Courts Martial, with Power to try and determine any Offences to be specify'd in such Articles, and to inflict Punishments for the same within this Kingdom in Time of Peace, doth, as we conceive, in all these Instances, vest a sole Legislative Power in the Crown, which Power, how safely soever it may be lodg'd with his present Majesty, and how tenderly soever it may be exercis'd by him, may yet prove of dangerous Consequence, should it be drawn into Precedent in future Reigns.

XI. Because the Clause in the Bill alledg'd to be made for enabling honest Creditors to recover their just Debts from Soldiers, seems to us rather to give a Protection to the Soldier, than any real Advantage to his Creditor, or other Person having just Cause of Action against him. It protects the Person of a Soldier from Execution, as well as mesne Process for any Debt under 10 *l.* and it protects the Estate and Effects as well as the Person of every Soldier from all other Suits, but for Debt, where the Cause of Action doth not amount to the like Sum; and in other Cases, where the Cause of Action exceeds that Value, Plaintiffs are, in many Instances, put under unreasonable Difficulties, as we conceive, before they can be allow'd even to commence their Suit; so that their bare Compliance therewith may become more grievous to them than the Loss of their Debt, or a quiet Submission to the Wrong sustain'd, by which Means his Majesty's good Subjects may be highly injur'd in their Properties, and insulted in their Persons by the Soldiery, and yet be depriv'd of the legal Remedies appointed for the Redress of such Grievances,

*W. Ebor,
Northampton,
Strafford,
Fr. Cestriens.
Scarsdale,
Bristol, Gower,
Greenwich,
Compton,
Poulet,*

*Boyle,
Litchfield,
Tadcaster,
Bute,
Guilford,
Harcourt,
North and Grey,
Foley,
Illy,*

*Mansel,
Dartmouth,
Bathurst,
Weston,
P. Hereford,
Trevor,
Fr. Rossen.
Abingdon,
Oxford.*

It will not be improper in this Place to give some Extract of the Debates in the House of Commons, upon the Number of Troops proposed for the Year 1718.

Dec. 4. A Motion was made for a Supply for maintaining the Guards and Garrisons in *Great Britain* for the Year 1718, according to the Estimate laid before the House: This Motion was oppos'd by several Members; among the rest by *Mr. Shippen*, *Sir William Wyndham*, and *Mr. Robert Walpole*, which last made a Speech that lasted above an Hour, wherein, besides the common Topick of the Danger of a standing Army in a free Nation, he insisted on four principal Points, *viz.*
1. "That whereas they were given to understand, that the Army was
"reduced to 16000 and odd Men, it still consisted of above 18000,
"which was one third Part more than the Number of Land-Forces

" *Great Britain* amounted to formerly in Time of Peace. 2. That
 " there was no due Proportion observ'd, either between the Number
 " of Horse, Dragoons, and Foot, or between the Number of the Of-
 " ficers and Soldiers that were kept standing; insomuch that of about
 " 11000 *l.* which the Pay of a reduc'd Regiment of Foot amounts
 " to, near 7000 *l.* goes towards the Pay of the Officers, and 4000 *l.*
 " only to the private Soldiers. 3. That the keeping up of so great a
 " Number of Officers, was, in effect, the maintaining of an Army
 " almost double of what was intended, since the Soldiers that were
 " wanting to compleat the Companies and Regiments, might be rais'd
 " with a Drum in twice four and twenty Hours: And in the 4th Place,
 " That the Pay of general Officers, which amounted to above 20000 *l.*
 " was an Expence altogether needless, and unprecedented in Time of
 " Peace." All which Particulars Mr. *Walpole* enlarg'd upon, and
 made good his Assertions by proper Vouchers. Mr. *Craggs*, Jun. as
 was incumbent on his Office of Secretary at War, answer'd Mr. *Wal-*
pole. He observ'd in general, " That in all wise Governments the
 " Security of the State is the Rule chiefly to be regarded; and that
 " his Majesty, both in the Augmentation and Reduction of his Forces,
 " had not only consult'd the *Safety*, but likewise the *Ease* of his Peo-
 " ple. That though, as was suggested, the Nation paid at present
 " near 18000 Men, yet there were only 16347, who could give any
 " Jealousy, unless some People should think our Liberties in Danger,
 " from the Chaplains, Surgeons, Widows of Officers, and such harm-
 " less, inoffensive Persons, who were included in the first Number:
 " That therefore there are not much above 4000 Men more now in
 " *Great Britain*, than there were kept up after the Peace of *Rys-*
 " *wick*, which Number must be thought very moderate, by all who
 " wish well to the present happy Settlement, considering, that the Em-
 " bers of an unnatural Rebellion lately extinguish'd, were still warm,
 " and the Discontents industriously fomented by the Enemies of the
 " Government: That the Parliament had ever contented themselves
 " with fixing the Number of the Forces that were thought necessary
 " to be maintain'd, but had left to the Crown the Manner of redu-
 " cing and modelling that Number; and therefore, if they should
 " now do otherwise, it would be but an indifferent Return to that gra-
 " cious and tender Regard which, on all Occasions, his Majesty has
 " shewn to the Security and Ease of his Subjects. That after all, it
 " is no less a Piece of Justice than Matter of Prudence, to keep up as
 " great a Number of Officers as possible; for, besides the Occasion which
 " the Nation may have for them for the future, it is but reasonable to
 " acknowledge the past eminent Services of Gentlemen, who having
 " been brought up to no other Trade but War, had no other Way to
 " subsist and provide for themselves and Families." Mr. *Craggs* was
 back'd by several Members, particularly Mr. *Aislaby*, Treasurer of
 the Navy, Mr. *Richard Hampden*, and Mr. *John Smith*, two of the
 Tellers of the Exchequer, Mr. *Coventry*, one of the Comptrollers of the
Green Cloth, Mr. *Bladen*, one of the Commissioners of Trade, and
 Mr. *Barrington Shute*, who chiefly insist'd on the Necessity of keeping
 up 16000 Men, at least, one YEAR longer. Sir *David Dalrymple* was
 of

of the same Opinion; and to that Purpose urg'd, That the Discontents run still as high in *Scotland*, as before the late Rebellion; of which he alledg'd several Reasons. Mr. *Walpole*, who spoke once or twice more, Mr. *Bromley*, Mr. *Freeman*, General *Erle*, and some other Gentlemen, were, on the contrary, of Opinion, That 12000 Men were sufficient.

II. That a Sum not exceeding 681618 *l.* be granted to his Majesty for defraying the Charge of the said 16347 effective Men for Guards and Garrisons, and other his Majesty's Land Forces in *Great Britain*, *Jersey* and *Guernsey*, for the Year 1718.

The second Resolution being afterwards read a second Time, a Motion was made, that the same be recommitted, which occasioned a fresh Debate. Mr. *Robert Walpole*, who made the most remarkable Speech, urg'd, among other Things, "That by the Method that had been follow'd in the Reduction of the Army, the Nation was put to an extraordinary and needless Charge;" which he endeavour'd to prove, by entering into the Particulars of the Regiments that were kept standing; shewing the Disproportion between the Foot, and the Horse and Dragoons, which last were most grievous and oppressive to the Country; and suggested, "That by reducing the Army in another Manner, the full Number of Land Forces already voted, might be kept up, and yet near a hundred thousand Pounds sav'd to the Nation, besides the Pay of general Officers, which, he doubted not, all Gentlemen would be ready to contribute with him, to be an unnecessary Expence." This Overture was in great Reception, by the far major Part of the Assembly, even by some of the staunchest Friends to the present happy Settlement, particularly by Sir *Joseph Jekyll*, who, being desirous to know what Mr. *Walpole* had to propose, to save so considerable a Sum to the Nation, declar'd his Opinion for recommitting the second Resolution above-mention'd, which was carry'd without dividing.

On the 9th the House resolv'd itself into a Grand Committee, to take into Consideration the Resolution for granting to his Majesty the Sum of 681618 *l.* which on the *Saturday* before had been recommitted. Mr. *Craggs*, Secretary of War, who spoke first, said, among other Things, "That having already agreed to the Number of Troops, it was but natural and reasonable to grant the Sum necessary to maintain those Troops; That the Commons had never enter'd into the Particulars of the Regiments, whether Horse, Dragoons, or Foot; but contenting themselves with fixing the whole Number, had wholly left the regulating of that Matter to the Crown; and therefore he hop'd, they would not shew less Regard to his Majesty, or repose less Confidence in his Wisdom, of which they had seen so many Instances, particularly both in the Augmenting and the Reducing of the Army." Mr. *Craggs* was seconded and back'd by several Gentlemen, and in particular, by Mr. *Aislabie*, Mr. *Lechmere*, Mr. *Treby*, Mr. *Tonge*, Sir *Richard Steele*, the Generals *Carpenter*, *Wade*, *Stanwix*, and some others: But, on the other hand, Mr. *Robert Walpole*, who chiefly answer'd Mr. *Craggs*, represented, "That the best Way for the Commons of *Great Britain* to acknowledge his Majesty's most

"gracious Intentions for the Good of his Subjects, was to point out
 "to him the Means of rendering those good Intentions effectual; That
 "this might be done by disbanding or dismounting eight or nine Re-
 "giments of Dragoons, whereby the Country would be eas'd of a great
 "Burden and Oppression; and that by this, and some other Reduc-
 "tions, (of which he made Mention) a considerable Sum of Money
 "might be sav'd to the Nation; as well as by taking off the Pay of
 "the General Officers, and other useless Contingencies." Mr. Wal-
 "pole was back'd by several Gentlemen, particularly, Sir Joseph Jekyll,
 Sir Thomas Hanmer, Sir William Wyndham, Mr. John Smith, and
 Sir Thomas Cross; and, on the other hand, some Courtiers endea-
 vour'd to shew, either that the Reductions propos'd were impractica-
 ble, or would not answer the End intended thereby. But some Gene-
 ral Officers having generously said, "That for their own Parts, if their
 "having no Pay could any way contribute to make the Nation easy,
 "they readily acquiesc'd:" They were taken at their Words; and
 the Question being put, That a Sum not exceeding 650000 l. be grant-
 ed to his Majesty, for defraying the Charge of 16347 effective Men,
 for Guards and Garrisons, and other his Majesty's Land Forces in
 Great Britain, Jersey and Guernsey, for the Year 1718, the same was
 carried in the Affirmative.

F I N I S

